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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,153	03/30/2004	Jean-Pierre Leblanc	2022D.PC	5423

7590

09/28/2004

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EXAMINER

VENKAT, JYOTHSNA A

ART UNIT

PAPER NUMBER

1615

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/813,153

**Applicant(s)**

LEBLANC ET AL.

**Examiner**

JYOTHSNA A VENKAT Ph. D

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 17-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### DETAILED ACTION

Receipt is acknowledged of preliminary amendment and IDS filed on 3/30/04. the preliminary amendment canceled claims 1-16 and added claims 17-30. Claims 17-30 are pending in the application and the status of the application is as follows:

#### *Specification*

Clarification is requested from the applicants with respect to the polyurethane/polyacrylate copolymer proposed in the examples. What is meant by “proposed”? Detailed explanation is requested.

#### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 29-30 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. **This is a written description rejection.**

To satisfy the Written description requirement, applicant must convey with reasonable clarity to one skilled in the art, as of the filing date that applicant were in possession of the claimed invention. Applicant's claims are drawn to skin care compositions comprising solubilized anionic polyurethane and at least one solvent and further comprising therapeutic additive (claim 29) or the additive is selected from the group consisting of additives used to treat

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dermatitis hypetiformis, warts, uticaria, hives, scars, keloids, scleroderma, lupus erythematosus, hirsutism, acne, pimples, athlete's foot, and herpes (claim 30). There is no description in the specification to the compounds used to treat the various disorders. There is neither description in each category nor exemplification.

Claims drawn to skin care compositions, employing this language at the point of novelty, such as applicants', neither provide those elements required to practice the inventions, nor "inform the public" during the life of the patent of the limits of the monopoly asserted. The expression could encompass myriad of compounds and applicants claimed expression represents **only an invitation to experiment regarding possible compounds.**

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21 lacks clarity because the specification does not explain the metes and bounds of "preneutralized". detailed explanation is requested. applicants are relying on U. S. Patents in the specification for anionic polyurethane. Do the patents disclose the polyurethane that is preneutralized?

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***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 16-20, and 22-28 are rejected under 35 U.S.C. 102(e) as being anticipated by U. S. Patent 6,264,933 ('933).

**CLAIM CONSTRUCTION**

The specification does not define the meaning for “treating skin”. the specification various examples drawn to cosmetic compositions and based upon the disclosure it is the examiners position that “treating skin” is equivalent to cosmetic compositions applied to skin.

See the abstract for “costing the keratin fibers” which reads on the claimed method and color cosmetics of claim 22. see claim 11 for “anionic polyurethane” claimed in the instant application, see also col.4, lines 5-15 for the ranges, see col.4, line 48 for “polyacrylates and polymethacrylates” which is the claimed second solubilized polymer. See also the ranges. At lines 29-30. the lower range reads on the claims 23-25 and the claimed ranges of both the polymers are within the claimed ranges for claims 26-28.

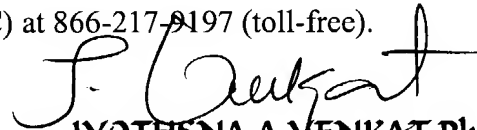
Any inquiry concerning this communication or earlier communications from the examiner should be directed to JYOTHSNA A VENKAT Ph. D whose telephone number is 571-

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272-0607. The examiner can normally be reached on Monday-Thursday, 9:30-7:30:1st and 2nd Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THURMAN K PAGE can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**JYOTHSNA A VENKAT Ph. D**  
**Primary Examiner**  
**Art Unit 1615**

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